



## PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: U.S. Patent Application of )  
Terrance W. Sutherland )  
For: COMPOSITE OVER-WRAPPED )  
LIGHTWEIGHT CORE )  
Serial No.: 10/785,470 )  
Filed: February 24, 2004 )  
Examiner: Mark S. Graham )  
Art Unit: 3711 )  
Attorney Docket No.: 3589.69886 )

DECLARATION OF BRIAN E. HIGGINBOTHAM  
PURSUANT TO 37 CFR 1.132

I, Brian E. Higginbotham, of Seattle, Washington, United States, declare as follows:

## BACKGROUND

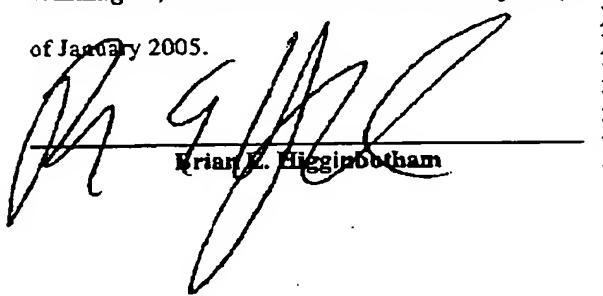
1. I am the director of sales and marketing for Fairweather Sports of Seattle, Washington.
2. I am a co-inventor, along with Mr. Terry Sutherland of Ottawa, Canada, of an invention titled "COMPOSITE WRAP BAT WITH ALTERNATIVE DESIGNS" described and claimed in United States Patent Application No. 10/144,251, now United States Patent No. 6,761,653, issued on July 13, 2004 (hereinafter referred to as "the '653 Patent").
3. Prior to making this Declaration, I reviewed the '653 Patent in detail, and in particular I reviewed the embodiment of the invention depicted in Figure 14 and described at column 8, lines 22-65 of the '653 Patent (hereinafter referred to as "the relevant '653 subject matter").

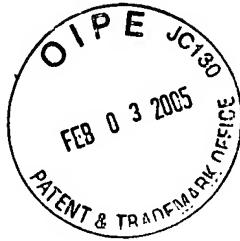
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4. I hereby declare and state that Mr. Terry Sutherland is the sole inventor of the relevant '653 subject matter and that it was derived from him alone.
5. Being warned that willful false statements and the like are punishable by fine or imprisonment, or both pursuant to 18 U.S.C. § 1001, and may jeopardize the validity of my application or any patent issuing thereon, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

DECLARED at the City of Seattle, in the State of )  
Washington, United States of America, this 21<sup>st</sup> day )  
of January 2005. )

  
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Brian E. Higginbotham



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Terrance W. Sutherland )  
For: COMPOSITE OVER-WRAPPED )  
LIGHTWEIGHT CORE )  
Serial No.: 10/785,470 )  
Filed: February 24, 2004 )  
Examiner: Mark S. Graham )  
Art Unit: 3711 )  
Attorney Docket No.: 3589.69886 )

DECLARATION OF TERRANCE W. SUTHERLAND  
PURSUANT TO 37 CFR 1.132

I, Terrance (Terry) W. Sutherland, of Ottawa, Ontario, Canada, declare as follows:

## BACKGROUND

1. I am the sole inventor of an invention titled, "COMPOSITE OVER-WRAPPED LIGHTWEIGHT CORE" described and claimed in United States Patent Application Serial No. 10/785,470 (hereinafter sometimes referred to as "my application"), which is a continuation-in-part of United States Patent Application Serial No. 09/862,254, filed on May 22, 2001, now Patent No. 6,755,757, which is a continuation-in-part of United States Patent Application Serial No. 09/040,775, filed March 18, 1998, now abandoned.
2. I am also a co-inventor, along with Mr. Brian H. Higginbotham, of an invention titled "COMPOSITE WRAP BAT WITH ALTERNATIVE DESIGNS" described and claimed in United States Patent Application No. 10/144,251, now United States Patent No. 6,761,653, issued on July 13, 2004 (hereinafter referred to as "the '653 Patent").

A handwritten signature in black ink that appears to read "Terrance W. Sutherland" followed by the date "Jan 24 '05".

3. I am also known as, and go by the name of Terry Sutherland.

### MY EXPERIENCE

4. I am the President and founder of CE Composites Baseball, Inc., the assignee of my application.
5. Founded in 1998, CE is a company specializing in the design and fabrication of baseball bats utilizing polymer composites comprising fibers, such as fiberglass, graphite, aramid and boron, impregnated and co-mingled with adhesive resins, such as epoxy, polyester, vinyl ester and thermoplastic.
6. As president of CE, I am responsible for all company research and development, marketing, planning and operations.
7. I have a Bachelor of Science degree in Metallurgical Engineering, which I obtained from Queen's University, Kingston, Ontario in 1966. My experience in polymer composites began with my employment at General Electric Canada in 1973 and my work and research in that area has continued through to the present.

### OFFICE COMMUNICATION - NOVEMBER 1, 2004

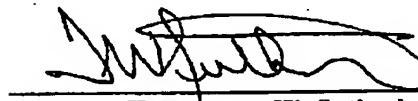
8. In an Office Communication, dated November 1, 2004, issued by Patent Examiner Mark Graham in respect of my application, Mr. Graham rejected claims 14, 15, 29 and 30 of my application under 35 U.S.C. 103(a). Mr. Graham cited the '653 Patent in support of the rejection.
9. In particular, Mr. Graham referred to and cited the embodiment disclosed in Figure 14 and at column 8, lines 22-65 of the '653 Patent, but not claimed in the '653 Patent (hereinafter referred to as "the relevant '653 subject matter").
10. Prior to making this Declaration, I reviewed the '653 Patent in detail, and in particular I reviewed the relevant '653 subject matter.

*Jan 24, 2005*

11. I hereby declare and state that I am the sole inventor of the relevant '653 subject matter and that it was derived from me alone.
12. Being warned that willful false statements and the like are punishable by fine or imprisonment, or both pursuant to 18 U.S.C. § 1001, and may jeopardize the validity of my application or any patent issuing thereon, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

DECLARED at the City of Ottawa, in the Province of )

Ontario, Canada, this 24<sup>th</sup> day of January 2005. )

  
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Terrance W. Sutherland )